

Serial No. 10/686,796

Amend. In Resp. to Off. Act. of Feb. 6, 2008

UTILITY PATENT

B&D No. JK01410

REMARKS

Applicants have canceled Claims 27-39.

Currently pending in the application are Claims 20-26.

The Examiner objected to a typographical error in Claim 27. In response, Applicants have canceled Claim 27 and its dependent claims, rendering moot this objection.

The Examiner rejected Claims 20-26 under 35 USC § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner has objected to the last three lines of Claim 20 "because when the closure member is in a locked position as this claim recites, there is no way for the battery to force the closure member into a released position as the remainder of the claim sets forth." This is incorrect.

Applicants refer the Examiner to FIG. 13A where the angled surface of the closure member, i.e., locking finger 136, is in the locked position and disposed within the guide channel. When the battery 108 is inserted, the battery 108 pushes locking finger 136 into a released position where battery 108 can be pulled off the power tool (as opposed to the position shown in FIG. 13C where the battery 108 is locked and cannot be pulled off the power tool). This is fully explained in page 12, lns. 10-29, of the specification.

Applicants submit that such arrangement is clearly claimed in the last three lines of Claim 20: "wherein the angled surface of the closure member, when in a locked position, is disposed within guide channel such that contact by the rail included on the battery automatically forces the closure member into a released position." Therefore, no amendment is necessary.

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The Examiner rejected Claims 20-39 under 35 USC § 102(b) as being anticipated by German 9319361 ("DE '361"). This rejection is respectfully traversed.

Claim 20 is the only remaining independent claim. Claim 20 calls for a mechanism for securing a removable battery to a power tool, comprising a battery receiving portion including at least one upright member and flange forming a guide channel for receiving a corresponding rail included on a removable battery, and a closure member slidingly mounted to the battery receiving portion. The closure member is configured to move between a locked position and a released position, and includes a generally angled surface directed toward the battery during connection of the battery to the power tool. When in a locked position, this angled surface of the closure member, is disposed within guide channel such that contact by the rail included on the battery automatically forces the closure member into a released position.

Admittedly, DE '361 discloses a battery receiving portion including at least one upright member and flange forming a guide channel for receiving a corresponding rail included on a removable battery, and a closure member 31.

However, closure member 31 is not mounted to the battery receiving portion. Closure member 31 is part of push button 28, which is mounted to the battery pack 4. DE '361, p. 6, lns. 6-11 & FIGS. 7-8 (all references herein are made to the English translation of DE '361). Closure member 31 engages recesses 8, 9 in the battery receiving portion. See DE '361, p. 7, lns. 24-29.

By contradistinction, Claim 20 requires that the "closure member [be] slidingly mounted to the battery receiving portion." Since DE '391's closure member 31 is mounted to the battery

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and not the battery receiving portion, DE' 391 cannot anticipate Claim 20 and its dependent claims.

In addition, closure member 31 does not have a generally angled surface directed toward the battery during connection of the battery to the power tool. That is because the angled surface of closure member 31 is directed away from the battery at all times, as shown in FIG. 8 of DE '391. By contradistinction, Claim 20 requires that the "closure member include[e] a generally angled surface directed toward the battery during connection of the battery to the power tool."

Furthermore, the closure member is not automatically moved by the battery rail into released position. That is because the battery rails (near 26 and 27 in FIG. 7 of DE '391) are separate from and cannot contact closure member 31 (below 26 and 27 in FIG. 7).

By contradistinction, Claim 20 requires that "the angled surface of the closure member, when in a locked position, is disposed ... such that contact by the rail included on the battery automatically forces the closure member into a released position." Because DE '391 does not disclose such arrangement, it cannot anticipate Claim 20 and its dependent claims.

In view of the foregoing, Claims 20-26 are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of the Claims are respectfully requested.

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No fee is believed due. Nonetheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



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